

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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|---|---|-------------------------------|
| SANDY J. BATTISTA, |) | |
| Plaintiff, |) | |
| |) | |
| VS. |) | |
| |) | |
| KATHLEEN M. DENNEHY, |) | |
| Commissioner; ROBERT MURPHY, |) | CIVIL ACTION No. 05-11456-DPW |
| Superintendent; STEVEN FAIRLY, Director |) | |
| of Security; SUSAN J. MARTIN, Director of |) | |
| Health Services, GREGORY J. HUGHES, |) | |
| LICSW; and UMASS CORRECTIONAL |) | |
| HEALTH PROGRAM, sued in the |) | |
| individual and official capacities, |) | |
| Defendants. |) | |

**RENEWED MOTION OF THE DEFENDANT, UNIVERSITY OF MASSACHUSETTS
CORRECTIONAL HEALTH PROGRAM, FOR ENTRY OF SEPARATE
AND FINAL JUDGMENT**

Now comes the defendant, University of Massachusetts Correctional Health Program (“UMCH”), and by its attorneys moves this Honorable Court for entry of separate and final judgment as to all counts of the complaint alleged by the plaintiff, Sandy J. Battista. As grounds for this motion, UMCH states that on March 23, 2006, this Honorable Court allowed UMCH’s motion to dismiss the plaintiff’s complaint as to all counts against it. Under Fed.R.Civ.P. 54(b), UMCH is entitled to final judgment in its favor, and there is no just reason for delaying the entry of such judgment. Proposed Findings and an Order for Judgment are attached as Exhibits “A” and “B” to the Memorandum in Support of this Motion.

The order of dismissal is an adjudication on the merits, the court did not grant leave to amend, and therefore judgment should enter in favor of UMCH. Although the plaintiff’s action remains pending against other defendants, the entry of separate and final judgment is appropriate

because no claim for liability against UMCH remains for determination, any appeal on the issues upon which the dismissal was granted is separable from claims against the other parties, and a prompt appellate resolution of the claims against UMCH could prevent the need for a retrial involving all the parties.

WHEREFORE, for the foregoing reasons and those set forth in the Memorandum in Support, the defendant, University of Massachusetts Correctional Health Program, respectfully requests that this Honorable Court grant this motion, and enter separate and final judgment in its favor.

Respectfully submitted,

/s/ Anthony R. Brighton

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CERTIFICATE OF SERVICE

I, Anthony R. Brighton, attorney for defendant, University of Massachusetts Correctional Health Program, hereby certify that on this 10th day of May 2007, a copy of the foregoing was sent by **first class mail, postage prepaid to:** Erin Anderson, Esq., P.O. Box 934, York Harbor, Maine 03911 **and a copy electronically forwarded** to all counsel on the Court's Electronic Notification List.

/s/ Anthony R. Brighton

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